

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

INGERMAN CONSTRUCTION COMPANY,

Plaintiff,

-vs-

CRANBROOK INSURANCE COMPANY,

Defendants.

Civil Action No.

NOTICE OF REMOVAL

(ECF Document)

TO: The Honorable Judges of the
United States District Court
For the District of New Jersey.

Petitioner-Defendant, Cranbrook Insurance Company, n/k/a Atain Insurance Company (hereinafter "Atain") by and through its attorneys, MORGAN MELHUISE ABRUTYN, 651 West Mt. Pleasant Avenue, Livingston, New Jersey 07039, respectfully shows that:

1. Atain is the defendant in the above-entitled action commenced by the above-named plaintiffs in the Superior Court of New Jersey, Camden County (Docket No. CAM-L-002668). A copy of the Summons and Complaint of which Petitioner-Defendant has had notice of is attached hereto. These constitute all process, pleadings, and orders of which Petitioner-Defendant has had notice.

2. Said action is a suit of a civil nature and the amount involved, exclusive of interest and costs, exceeds the sum of \$75,000.

3. The United States District Court has original jurisdiction over the subject matter of said civil action under 28 U.S.C. §1332(a) and 28 U.S.C. §1441, et seq., in that it is an action wherein the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs and there is complete diversity of citizenship between the plaintiffs and defendant and defendant is not a citizen of the State of New Jersey:

(a) Plaintiff, Ingerman Construction Company, a corporation of the State of New Jersey with its principal place of business located at Five Powell Lane, City of Collingswood, State of New Jersey, and by virtue of these facts, was and is a citizen of the State of New Jersey;

(b) Defendant, Atain is a corporation of the State of Texas with its principal place of business located at 30833 Northwestern Highway, City of Farmington Hills, State of Michigan and by virtue of these facts, was and is a citizen of the States of Texas and Michigan. "Cranbrook Insurance Company" officially changed its name to Atain with the Michigan Department of Insurance and Finance Services on September 28, 2011.

4. Plaintiff's Complaint seeks declaratory judgment with regard to an insurance policy issued by Atain ("Policy"), which plaintiff alleges provides it with general liability coverage relative to the injuries and claims alleged in the matter of Estate of Carlos P. Munoz, v. Ingerman Construction Company, Inc., et al., in the Court of Common Pleas of Philadelphia County, Pennsylvania at Docket No. 001847 October Term 2013 ("Underlying Action").

5. In the complaint filed in the Underlying Action, plaintiff therein seeks recovery against Ingerman for significant injuries suffered by, and the resultant death of, the plaintiff's decedent.

6. In the instant matter, plaintiff seeks a declaration regarding the applicability of the Policy's \$1,000,000 coverage limit to the claims alleged in the Underlying Action, and a determination regarding Atain's duty to defend plaintiff in the Underlying Action.

7. The Declaratory Judgment Act U.S.C.A. §2201, authorizes the District Court to exercise jurisdiction over an action for declaratory relief.

8. This Notice is being filed within 30 days after Atain received notice of the Summons and Complaint, which took place on July 10, 2015, and the time for filing this Notice under 28 U.S.C. Section 1446 has not expired.

9. This Notice of Removal is being filed within one (1) year of the filing of the State Court action which was commenced on July 10, 2015. See Complaint attached hereto as Exhibit A.

10. Upon the filing of this Notice, Petitioner-Defendant will give written notice thereof to Plaintiff's attorney and will file copies of this Notice with the Clerk of the Superior Court, Camden County, as provided by law.

11. There is attached hereto a true and correct copy of all process and pleadings of which Petitioner-Defendant has had notice in said action.

WHEREFORE, Petitioner-Defendant prays that this case be removed from the Superior Court of New Jersey, Camden County, to this Court and proceed in this Court as an action properly removed thereto.

DATED: August 6, 2015

MORGAN MELHUISE ABRUTYN

BY: **s/Joseph DeDonato**

JOSEPH DeDONATO, ESQ.

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Attorneys for Petitioner-Defendant

Cranbrook Insurance Company, n/k/a

Atain Insurance Company